UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/C.4/49/9
18 October 1994

ORIGINAL: ENGLISH

Forty-ninth session
SPECIAL POLITICAL AND DECOLONIZATION
COMMITTEE (FOURTH COMMITTEE)
Agenda item 148

THE SITUATION IN THE OCCUPIED TERRITORIES OF CROATIA

Letter dated 13 October 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

Upon instructions of my Government, I have the honour to write to you in connection with agenda item 148, "The situation in the occupied territories of Croatia", inscribed at the request of the Republic of Croatia and allocated to the Special Political and Decolonization Committee.

The reasons given in the explanatory memorandum of Croatia (A/49/142) are falsely construed in order to present erroneously the situation in Krajina, a United Nations Protected Area. Moreover, the main intention is to blame the Federal Republic of Yugoslavia for all of Croatia's problems arising from its illegal secession. In this vein, Croatia advanced a number of unfounded charges accusing the Federal Republic of Yugoslavia of the alleged aggression and occupation.

The Government of the Federal Republic of Yugoslavia strongly rejects such assertions as unwarranted, erroneous and malicious, and for the following reasons considers that this item should not be discussed in the General Assembly.

1. The request of Croatia is in contravention of Article 12 of the Charter of the United Nations. It is well known that issues in connection with the situation in the United Nations Protected Areas (UNPAs) fall within the competence of the Security Council. The General Assembly is therefore precluded from making any recommendation with regard to those issues unless the Security Council so requests.

2. The general rule of international law, set out in article 42 of the regulations concerning the laws and customs of war on land, annexed to the Fourth Hague Convention of 1907, stipulates that "Territory is considered

occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised". The definition of the occupied territory therefore includes the following elements: (a) the army of a hostile State; (b) the act of aggression and invasion of the territory of another State; and (c) the establishment and exercise of authority of a hostile army over the occupied territory.

In the case of Krajina, a UNPA, none of the above-mentioned conditions are applicable. The territory of Krajina, a UNPA, is not under the control of an enemy army. It is controlled by the local population and is under the protection of the United Nations Protection Force (UNPROFOR). The legal status of these areas has been determined by the Vance plan, which was accepted by Croatia (President Tudjman's letter of 6 February 1992) and approved by the Security Council in its resolution 740 (1992). Pursuant to the plan, the territory of Krajina was turned into a United Nations Protected Area (UNPA). UNPROFOR was deployed and undertook to protect the local population whereas the units of the Yugoslav National Army (JNA) were withdrawn.

Hence, it cannot be said that those territories are under occupation, for the following reasons.

(a) According to the Vance plan, UNPAs are not defined as occupied territories. Their final status is to be determined in negotiations on an equal footing;

(b) UNPAs are under the protection of the United Nations, which represents the highest authority in those areas. To allege that an occupying authority is in control would imply the existence of a parallel authority, which is absurd;

(c) Since the Serb people have constituted a majority in those areas for centuries, it is outrageous to allege that they had occupied their own territory.

3. It is a well-known historical fact that Austro-Hungary, whose integral parts were the said territories (today Krajina and Croatia) settled the Serbs in the border areas of the monarchy, using them as defenders of its eastern and southern borders against the Ottoman Empire and the Turkish invasion. It was in the early sixteenth century that the military region named "Vojna Krajina" was established in its border zones ranging from the Dalmatian coast to the Hungarian border as a buffer zone towards the Ottoman Empire. Serbs inhabited these areas, established their homes there, cultivated the land and defended, as professional soldiers, the borders of the Austro-Hungarian monarchy.

4. By the secession of Croatia from the former Socialist Federal Republic of Yugoslavia and the change of its constitution contrary to the will of the Serb people in Croatia, the position of Serbs in Krajina and Croatia has become particularly difficult. The new Constitution formally deprived the Serbs of their status as a constituent people which they had under the previous Constitution of Croatia, so that, from the point of view of the Croatian State, they were to become a national minority. Understandably, this was totally unacceptable to the Serb people from the legal, political and any other aspect.

According to the Constitution of the former Yugoslav Republic of Croatia, such a decision could not be made without the consent of the Serb people in Croatia.

The parties which came to power in Croatia started to discriminate openly against the Serbs through ethnic cleansing, forcible assimilation, illegal dismissal from jobs, destruction of Serb private property, physical maltreatment and even execution.

In such conditions, Serbs in Croatia in the territories where they constituted a majority resisted the aggressive policy of Croatian authorities and established their political entity in the form of the Republic of Serbian Krajina, which was a legitimate expression of the will of the Serb people and its just aspiration towards self-determination in this area. The Serb people wish to preserve their status of a constituent people and can by no means be treated as a national minority.

5. Since the Serb people in Krajina consider that the conflict with Croatia should be solved by peaceful means, the negotiations between Croatia and Krajina were launched within the International Conference on the former Yugoslavia with the aim of finding a mutually acceptable and just peaceful solution. The negotiations were envisaged to have three stages. The first stage on the cease-fire has almost been brought to a successful end. The second stage, on the modalities of cooperation in the fields of economy, transport and humanitarian issues, is under way.

Despite the aforementioned initial results and hints of positive impacts to further negotiations and stabilization of the situation on the ground, Croatia has been persistent in its effort to politicize the ongoing negotiating process, raising prematurely the issue of a final political settlement which is to be addressed in the third stage. In this context, Croatia does not even refrain from occasional armed attacks on UNPAs (the cases of Maslenica bridge, Zemunik airport, Peruca dam, Medak pocket), resulting in the loss of innocent civilian lives and extensive damage.

The latest events, when groups of the Croatian civilians in the areas bordering UNPAs blocked and prevented the work and functioning of UNPROFOR, with the approval of the Croatian authorities, clearly indicate this fact and constitute a direct breach of the cease-fire agreement concluded on 29 March 1994 and the provisions of the Vance plan. Moreover, the highest Croatian officials continue to threaten openly the use of force as "the most effective" means for the solution of the problem of UNPAs. Furthermore, in defiance of the Security Council warnings, Croatia continues to violate the Charter of the United Nations and the Vance plan. It is therefore not surprising that such a policy of Croatia represents the main obstacle to the implementation of the Vance plan and the successful conclusion of the peace negotiations.

6. The Federal Republic of Yugoslavia is actively engaged in the process of searching for a peaceful solution to the crisis in the territory of the former Federal Republic of Yugoslavia. It has strictly observed the commitments of the Vance Plan as the sole legally binding international instrument for its signatories, and expects that it be fully and consistently implemented.

In order for the political negotiations of the parties to the conflict to resume, so that a generally acceptable solution is reached by peaceful means, necessary conditions must be created for UNPROFOR to fulfil its mandate. The Federal Republic of Yugoslavia will support and accept any solution reached by the parties to the conflict through negotiations.

The Federal Republic of Yugoslavia has on a number of occasions emphasized that it had no territorial claims towards any country, including the former Yugoslav republics. It fully respects the purposes and principles of the Charter of the United Nations. Therefore, the allegations that the Federal Republic of Yugoslavia has introduced its monetary and education system in the UNPAs are totally unfounded.

The Federal Republic of Yugoslavia cannot recognize the former Yugoslav republics unless all peoples who live there recognize them first, i.e., when the political agreement is reached between the parties directly involved.

The Federal Republic of Yugoslavia wishes to recall that the Republic of Croatia had been recognized within its administrative borders by the premature decision of major international factors despite their officially proclaimed position that the recognition of the newly created States in the territory of the former Socialist Federal Republic of Yugoslavia should come after a comprehensive political solution had been reached.

7. For all those reasons, the Government of the Federal Republic of Yugoslavia considers that the debate in the Special Political and Decolonization Committee on agenda item 148 is entirely unnecessary and counterproductive. The initiative of Croatia is yet another attempt to divert the attention of the international community from the actual state of affairs and the commitments undertaken but not honoured by Croatia. Instead of actively pursuing negotiations in good faith with the authorities of Krajina, Croatia has indulged in unsubstantiated recriminations against the Federal Republic of Yugoslavia. Such an approach will certainly not contribute to the final political settlement.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly under agenda item 148.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.